

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
BILLINGS DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

vs.

GABRIEL COWAN METCALF,

Defendant.

CR 23-103-BLG-SPW

**ORDER SETTING
DETENTION HEARING**

Defendant has filed a Motion for Detention Hearing. (Doc. 16.) The United States has filed a response in opposition to Defendant's motion. (Doc. 18.)

A detention hearing may be reopened "at any time before trial if the judicial officer finds that information exists that was not known to the movant at the time of the hearing and that has a material bearing on the issue whether there are conditions of release that will reasonably assure the appearance of such person as required and the safety of any other person and the community." 18 U.S.C. § 3142(f)(2). Stated another way, the defendant must establish both that (1) "information exists that was not known to [the] defendant at the time of the initial hearing," and (2) "the new information is material to release conditions regarding flight or dangerousness." *United States v. Bowens*, No. CR-07-544-2-PHX-ROS (ECV), 2007 WL 2220501, at *1 (D. Ariz. July 31, 2007) (citing *United*

States v. Hare, 873 F.2d 796 (5th Cir. 1989)).

Here, an evaluation of the Defendant has been filed under seal. (Doc. 15.) The evaluation consists of information that was not known to the Defendant at the August 24, 2023, detention hearing. Further, this information is material to the issue of whether there are conditions of release that will reasonably ensure the safety of others in the community. Therefore, the Defendant has met his burden for the reopening of the detention hearing.

Accordingly, IT IS ORDERED that the Court will conduct a Detention Hearing in this matter on **September 21, 2023, at 9:00 a.m.** in the Bighorn Courtroom, James F. Battin Federal Courthouse, Billings, Montana.

DATED this 18th day of September, 2023.



TIMOTHY J. CAVAN
United States Magistrate Judge